FY94 ANNUAL GROWTH POLICY

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Includes
Guidelines for Administration
of the
Adequate Public Facilities Ordinance
and
Growth Capacity Ceilings
for FY 94





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July 1, 1993

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Resolution No.:	<u>12-11</u>	L87	
Introduced:	June	29,	1993
Adopted:	June	29,	1993

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: (County	Counc	il
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Subject: Approval of FY 94 Annual Growth Policy

Background

- 1. County Code Section 33A-15 requires that no later than June 30th of each year, the County Council must adopt an Annual Growth Policy (AGP) to be effective throughout the next fiscal year, providing policy guidance to the various agencies of government and to the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
- 2. On January 11, 1993, in accordance with the requirements of Section 33A-15, the County Executive transmitted to the County Council his comments and recommendations on the FY 94 Annual Growth Policy based on the Final Draft Annual Growth Policy submitted by the Planning Board on November 30, 1992.
- 3. In addition, the Final Draft Annual Growth Policy report as submitted by the Planning Board contained supporting and explanatory materials including forecasts for the most probable trends in population and households, a set of recommended growth capacity ceilings for each policy area within the County, proposed guidelines for the administration of the Adequate Public Facilities Ordinance, and other background information relevant to the subject of growth policy.
- 4. On February 18, 1993, the County Council held a public hearing on the County Executive's recommended FY 94 Annual Growth Policy.
- 5. On May 25, 1993, the County Council adopted the Capital Improvements Program for fiscal years 1994-1999.
- 6. On June 10, 1993, June 17, 1993, June 22, 1993 and June 24, 1993 the Council conducted worksessions on the Annual Growth Policy, at which time careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Montgomery County Planning Board, and the comments and concerns of other interested parties.
 - 7. The County Council reviewed the facts and assumptions underlying this

Annual Growth Policy. This included: 1) a detailed review by policy area of existing and projected transportation facilities and conditions; 2) discussion of the allocation of transportation capacity between jobs and housing, the "pipeline" of development, proposed staging ceilings, and remaining transportation capacity; 3) a review of the special ceiling allocation for affordable housing; 4) a review of the Annual Report of the Silver Spring Transportation Management District and issues related to ceiling capacity in the Silver Spring CBD policy area; and 5) a review of issues related to the determination of adequate public school facilities under this Resolution.

8. The Council recognizes efforts made by the Planning Board and the Executive to improve the consistency and reliability of the County growth management data base. These efforts have resulted in a reduction of errors from prior years. In this regard, the Council stresses the need for sustained administrative vigilance in assessing the validity of computer based systems and the reliability of data collection efforts. The Council recognizes that a quantitatively oriented system such as the Annual Growth Policy, though subject to limitations, can promote objectivity and fairness in land-use decision making.

Action

The County Council for Montgomery County, Maryland, adopts the foregoing background statement and approves the following Resolution:

The Planning Board's Final Draft FY 94 Annual Growth Policy and comments and recommendations of the County Executive have been reviewed and amended by the County Council, so that the following constitutes the entire Annual Growth Policy for FY 94:

I. Guidelines for the Administration of the Adequate Public Facilities Ordinance:

The Montgomery County Subdivision Ordinance, County Code Section 50-35(k) ("the Adequate Public Facilities Ordinance or APFO"), directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted administratively by the Planning Board to the extent that these guidelines conflict with previous ones. They also supersede those provisions of the Adequate Public Facilities Ordinance which were specified to apply only until the County Council had approved an Annual Growth Policy.

The Council accepts the definitions of terms and the assignment of values to key measurement variables which were used by the Planning Board and its staff, and accepted by the Executive, in developing the

recommended Annual Growth Policy. The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board is directed to request and consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

Subdivision applications may be subject to two different types of test. One is called the Policy Area Transportation Review. The other is called the Local Area Transportation Review.

The Policy Area Transportation Review divides the County into policy areas. These are geographic areas for which the adequacy of public facilities is addressed on an area-wide basis, as follows:

- With regard to transportation, a staging ceiling may be established for each policy area.
- With regard to school facilities, a legislative determination will be made whether the school facilities for each cluster will be adequate.

The staging ceiling for a policy area is defined as the maximum amount of land development that can be accommodated by the existing and programmed public facilities serving the area, at an assigned level of service standard. The legislative directive concerning school policy areas reflects a determination whether additional development can be accommodated by the schools. The policy area staging ceilings and directives approved in this Annual Growth Policy are to remain in effect throughout FY 94 unless amended subsequently by the County Council after public hearing. However, the Planning Board may adjust the policy area staging ceilings, in accordance with the Board's administrative procedures, to reflect trip reduction programs, developer participation in capital improvement projects, or direction in this Resolution to adjust staging ceilings upon the occurrence of certain events.

Except for special circumstances which are described below (see discussions of "Ceiling Flexibility"), if a proposed subdivision is in a geographic policy area for which previously approved development (pipeline) exceeds the staging ceiling, or for which a negative school facility directive exists, then the Planning Board must find the public facilities to be inadequate.

The purpose of the Policy Area Transportation Review method for evaluating the adequacy of transportation facilities is to place the individual subdivision within the context of a comprehensive, countywide assessment, which takes account of, and properly allows for, the upstream and downstream traffic impacts of development in various geographic areas. Similarly, the purpose of the policy area directives concerning school facilities is to reflect the ability of the public school system to accommodate students from new development.

The policy area ceilings and directives described in this AGP are based primarily on the public facilities in the Approved FY 94-99 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY 93-98 Consolidated Transportation Program (CTP). The Council also reviewed related County and State funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These ceilings and directives and their supporting planning and measurement process have been the subject of a public hearing and review during worksessions by the County Council. Approval of the ceilings and directives reflects a legislative judgment that, all things considered, these staging ceilings and procedures constitute a reasonable, appropriate, and desirable set of interim growth limits, which properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth limits will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are not intended to be used as a means for government to avoid its responsibility to provide adequate public facilities. Annual review and oversight allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any moratorium on new subdivision approvals in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures which accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance shall at all times be consistent with adopted master plans and sector plans. Where development staging in adopted master plans or sector plans are more restrictive than AGP guidelines, the guidelines in the adopted master plan or sector plan shall be used to the extent that they are more restrictive. More restrictive guidelines can be found in the Friendship Heights Sector Plan, and the Silver Spring CBD Sector Plan. The ceiling in the Potomac policy area is set at the zoning ceiling based on the policy in the Potomac Master Plan. Development in the Bethesda CBD is controlled by the cordon capacities established in the Bethesda CBD Sector Plan.

The ceiling in all Group I areas is set at the zoning ceiling subject to guidelines for Local Area Transportation Review and guidelines for water and sewerage facilities.

A. Guidelines for Transportation Facilities

- (1) Policy Area Transportation Review
 - (a) Policy Areas; Establishment of Staging Ceilings

For the purposes of transportation analysis, the County has been divided into 292 areas called traffic zones as seen in Map 1. Based upon their transportation characteristics, these areas are grouped into transportation policy areas. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. The policy areas in effect for FY 94 are: Aspen Hill, Bethesda CBD, Bethesda-Chevy Chase, Cloverly, Damascus, Derwood/Shady Grove, Fairland/White Oak, Gaithersburg City, Germantown East, Germantown Town Center, Germantown West, Grosvenor, Kensington/Wheaton, Montgomery Village/Airpark, North Bethesda, North Potomac, Olney, Potomac, R&D Village, Rockville City, Silver Spring CBD, Silver Spring/Takoma Park, Twinbrook, Wheaton CBD, and White Flint.

The boundaries for the Grosvenor, Twinbrook, and White Flint policy areas are shown on Maps 2 through 4, respectively. Detailed boundaries of other policy areas are shown in the Planning Board's Final Draft AGP.

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where the cities are expected to annex properties in the near future or where County regulated land is surrounded by city regulated land. The boundaries of these municipal policy areas do not automatically change with any changes in municipal boundaries but will require affirmative Council action.

Map 5 shows the policy areas, and the Standard of Transportation Level of Service assigned to each of them. These levels of service standards represent a statistical average over the whole policy area. They are used in the calculations in the traffic simulation model described below. In general, the average level of service standards posted for each policy area are based on a policy that it is appropriate to permit greater congestion to occur in areas in which greater transit availability provides an alternative mode of travel for many travelers in the area. In that way, there is an opportunity for an approximately equivalent overall transportation level of service to the residents and employees throughout the County.

Chart 1 provides a refined basis for showing the correspondence between transit availability and the average level of service standards. It is based primarily upon materials prepared during the development of the FY 92 Annual Growth Policy. In Chart 1, combinations of transit service that provide increased coverage, frequency, accessibility, and use are ranked as defining a higher level of transit service. Quantification is intended to serve as a guide and not as a prescriptive standard.

These underlying conceptual and operational measures of coverage, frequency, accessibility, and use have been combined in a quantitative fashion to describe and rank order the six different transit LOS categorical definitions in Chart 1. This approach takes into account fixed-guideway transit systems such as Metrorail, MARC

commuter rail, or possible light rail trolley systems. It also applies to bus-based transit systems, high occupancy vehicle priority systems, and auto dependent transit systems which are based in large part on park/ride access as opposed to walk and bus access.

Through the use of a computerized traffic simulation model, the Planning staff has computed a balanced relationship between a programmed set of transportation facilities and a geographical pattern of jobs and housing units. Policy area ceilings have been established through a process which assigns a hypothetical future land use pattern (i.e., jobs, and housing units derived from interim market projections) to the County, and tests its traffic impact through the use of this model. Through a process of repetitive trial and error, this land use pattern has been modified so that it produces a traffic volume and distribution that is equivalent to the average level of service standard for each policy area.

The allocation of transportation capacity between jobs and housing by the County Council reflects its approach to the General Plan recommendation that jobs and housing be balanced. Attainment of that goal is often expressed by the ratio that describes the relationship between the number of employed residents per household to the number of jobs per household. Since the current jobs-to-housing ratio of existing and approved development is tilted towards jobs, allocations of new capacity as well as allocations of any reductions in capacity should generally favor housing. This may vary in policy areas with a significant staging ceiling deficit in jobs.

Some modifications to this approach may be made in specific policy areas to reflect the character of an area and its related development policies as set forth in the relevant master plan(s), the size and allocation of jobs and housing in the existing base and pipeline of development. Modifications may also be made to avoid or reduce the duration of any subdivision moratorium or to address specific equity considerations. The product of these adjustments is tested against the appropriate level of service in the transportation model to determine the specific ceiling allocation as described above. The staging ceilings established by this method are shown in Tables 1 and 2.

The traffic simulation model takes into account all existing and approved development and all eligible programmed transportation CIP projects. For these purposes, "approved development" includes all approved preliminary plans of subdivision. "Eligible programmed transportation CIP projects" include all County CIP, State Transportation Program projects, and City of Rockville or Gaithersburg projects for which 100 percent of the expenditures for construction are estimated to occur within the first four years of the applicable programs.

Because of the unique nature of the Georgetown Branch Trolley Project in comparison with other transportation systems which are normally used in calculating development capacity, it is prudent to approach the additional capacity from the system in a conservative way, particularly with respect to the timing of capacity and the amount of the capacity recognized. Therefore, the counting of capacity from the Georgetown Branch Trolley Project will not occur until the actual system is constructed and operated, or at least until there is reasonable certainty as to its exact date of operation and amount of actual ridership.

If the State Highway Administration confirms either that the additional capacity provided by the widening of the I-270 West Spur will be designated for high-occupancy-vehicle (HOV) use during peak hours or that this widening project is scheduled to be completed no later than FY 97, then the Planning Board must administratively adjust the staging ceilings for housing and jobs in North Bethesda by adding 394 dwelling units and 500 jobs, respectively, and must administratively adjust the staging ceiling for jobs in the White Flint policy area by adding 2,029 jobs.

Planning staff shall keep a record of all previously approved preliminary plans and other data about the status of development projects, and continuously update the pipeline number of approved preliminary plans, thus constantly keeping in view, and presenting to the Planning Board, the amount of capacity still available under the adopted ceiling at any given time. The continuous updating shall include all changes to the amount of development approved under outstanding preliminary plans, with the exception of those which result from the discovery of accounting errors. Such errors shall be reported to the Council each year in May prior to the Council's adoption of the AGP, and shall be reported on a quarterly basis, or more frequently, to the Planning Board who may bring them to the attention of the Council if the Board judges them to be significant. (Tables 1 and 2 show the capacity remaining as of April 30, 1993.) The Planning Board should maintain a periodically updated queue list of applicants for preliminary plan of subdivision approval.

When the subdivision pipeline has risen to meet the ceiling, no more subdivisions shall be approved by the Planning Board in that policy area, except under certain special circumstances, which are outlined below.

(b) Silver Spring CBD Policy Area Ceiling

The Silver Spring CBD was established as a separate Group VI Policy Area in 1987, as categorized on Map 5 and Chart 1. The boundaries of the policy area are shown in the Final Draft FY 94 Annual Growth Policy.

The job and housing ceilings for this Group VI Policy Area must meet the following administrative guidelines:

 All traffic limitations are derived from the heaviest traffic demand period, in Silver Spring's case, the p.m. peak hour outbound traffic;

- The average level of service for the surrounding Silver Spring/Takoma Park Policy Area must not be worse than the adopted average standard of D/E;
- The outbound traffic, including both local CBD traffic and through traffic, must not exceed the Silver Spring practical cordon capacity of 18,000 vehicles in the peak hour;
- The Planning Board and the Department of Transportation will implement Transportation Systems Management for the Silver Spring CBD; the goal of this program will be to achieve the commuting goals for transit use and auto occupancy rates set out below.

The County Government, through the Silver Spring Parking District, will constrain the amount of public and private long term parking spaces.

The staging ceilings as shown in Tables 1 and 2 meet these administrative guidelines. The staging ceilings reflect the County Council's directive to the Planning Board to administratively reduce the jobs ceiling by 1,000 jobs after approval of a revised Silver Triangle preliminary plan.

As of April 19, 1993, the remaining capacity for jobs is 939, of which 250 must be retail jobs in optional method development. As of April 19, 1993, the remaining capacity for housing is 1,183. The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are as follows:

Parking constraint

A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; (this maximum assumes a peak accumulation factor of .9, which requires verification in Silver Spring and may be subject to revision). Interim long-term parking constraints will be imposed in accordance with the amount of interim development. Long-term public parking spaces will be priced to reflect the market value of constrained parking spaces.

• Commuting goals

For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods; and

For new nonresidential development, attain 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee

mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by using scientific and statistically valid survey techniques.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans as set forth in Chapter 42A, Article II, of the County Code.

Each Annual Growth Policy will reflect the Annual Report of the Silver Spring Transportation Management District, which must include a report of the status of critical signalized intersections (as defined in the report of October 5, 1987). The Annual Growth Policy must include a projection of future traffic conditions based on intersection improvements in the proposed CIP and full achievement of the Transportation Management District goals. The Council will take this information into account in the decisions on the Growth Policy and the CIP.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of five peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

(c) Special Ceiling Allocation for Affordable Housing and Health Care Facilities.

The County's policy of balancing growth in each policy area with the supply of public facilities may have the effect of undermining other important County policies for the provision of:

1) a balanced and adequate housing supply, with emphasis on the availability of affordable housing for low and moderate income families; and 2) reasonably accessible health care facilities. This subsection provides a limited exception to policy area transportation review requirements to ensure that these policies are not undermined. The Planning Board may approve subdivision applications for affordable housing and health care facilities in any policy area with insufficient remaining capacity, according to the following guidelines:

(i) Affordable Housing

(1) An affordable housing development is defined as a housing development which is either owned by the Housing

- Opportunities Commission or by a partnership in which HOC is the general partner; or a privately-owned housing development in which 20% of the units are occupied by households at or below 50% of the area median income, adjusted for family size, or 40% of the units are occupied by households at or below 60% of the area median income, adjusted for family size. Such a development must be certified by HOC as having met the definition of affordable housing and the owner of that development must agree with HOC to maintain the occupancy requirements for at least 15 years. These requirements include the provision of any MPDU's.
- (2) Except as provided in paragraph (3), in a policy area with insufficient remaining capacity, the Planning Board may approve in each fiscal year not more than:
 - (a) 125 units for projects owned or controlled by HOC;
 - (b) 300 units for privately owned affordable housing developments; or
 - (c) an aggregate of 300 units in a policy area with both HOC owned and controlled developments and privately owned affordable housing developments.
- (3) The Planning Board must not approve additional housing units under this allocation in a policy area:
 - (a) that in the fiscal year listed in the table below has been in a moratorium for new housing subdivision approvals for more than the number of consecutive years listed in the table below and the remaining capacity for the policy area is at least the number of housing units listed in the table below in deficit; and
 - (b) the Planning Board has cumulatively approved 500 housing units in that policy area under this special ceiling allocation.

Remaining Capacity Threshold (in dwelling units)

<u>by length of moratorium</u>						
Year	4 vears	5 years	6 years	7 years	8 years	9+ years
FY 94	-2000	-1800	-1800	-1800	-1800	-1800
FY 95	-2000	-1800	-1600	-1600	-1600	-1600
FY 96	-2000	-1800	-1600	-1400	-1400	-1400
FY 97	-2000	-1800	-1600	-1400	-1200	-1200
FY 98	-2000 -2000	-1800	-1600	-1400	-1200	-1000
LT 20	-2000	-1000	-500			

Subject to the housing unit cap under paragraph (2), approvals under this special ceiling allocation may resume if the deficit in remaining capacity in the policy area has been reduced under the number of housing units listed in the

table above but only to the extent that transportation capacity has increased (as calculated from the housing unit point listed in the table above) due to a programmed transportation improvement that is either under construction or is funded for construction in the fiscal year for which the special ceiling allocation is requested from the Planning Board.

If the subdivision moratorium is eliminated in a policy area subject to this paragraph and is later reinstated, the calculation of the number of cumulative housing units approved under this special ceiling allocation starts at zero.

(ii) Health Care Facilities - General

- (1) "Health care facility" and "medical service" have the meanings defined in Title 19 of the Health General Article of the Maryland Code. "Health care facility" does, however, include kidney disease treatment facilities. It includes a medical office building and medical or dental clinic, as permitted in the zoning ordinance, provided that no general office space is leased or otherwise made available. It does not include home health care agencies.
- (2) Assuming all other requirements for preliminary plan approval are met, and subject to all limitations of this subsection, the Planning Board may grant a special ceiling allocation for a health care facility if:
 - (a) a State certificate of need has been issued for a health care facility requiring such approval; or
 - (b) for facilities not requiring a certificate of need, a determination is made under this paragraph that:
 - (I) a need exists for the proposed health care facility due to an insufficient number of practitioners or facilities providing similar medical services presently available to existing or previously approved concentrations of population within the policy area and that the applicant reasonably can be expected to serve that specific need; and
 - (II) the needs to be served by the health care facility cannot be reasonably accommodated in existing or previously approved (but unbuilt) general office space within the policy area.

(iii) Health Care Facilities - Procedures

(1) Upon receipt of a request for a special ceiling allocation under subparagraph (ii)(2)(b), the Planning

Board must refer the request to: (1) the Office of Zoning and Administrative Hearings with procedural instructions for a hearing on the request, and (2) the Director of the Department of Health for the director's recommendation on the issue of need under subparagraph (ii)(2)(b)(I).

(2) The applicant must voluntarily consent to a deferral of its application before the Planning Board until after completion of proceedings before the hearing examiner. Requests must be considered on a first come, first served basis in the making of the request for the special ceiling allocation. The Director of Health must make its recommendation to the hearing examiner which shall become a part of the hearing record. The hearing examiner must transmit both the record and a recommendation to the Planning Board in accordance with the Board's procedural instructions. The Planning Board may rely on the record before the hearing examiner without need for further testimony. As with other subdivision issues, the applicant has the burden of producing evidence to support its request and the burden of proof on all applicable standards.

(iv) Health Care Facilities - Findings

- (1) In making a determination of need under subparagraph (ii)(2)(b)(I), the following factors, among other relevant information, should be considered: (1) the recommendation of the Director of the Department of Health; (2) any state or local health plan for the area; (3) the type of medical service and number of practitioners providing the service who are located within the policy area or within a reasonable distance in contiguous policy areas; (4) the business plan of the applicant; (5) occupancy projections, including proposed lease or similar arrangements; and (6) any proposed acquisition or relocation of specialized medical equipment.
- (2) In making a determination on the practicality of existing or planned general office space to reasonably accommodate the needs served by the proposed health care facility under subparagraph (ii)(2)(b)(II), the following factors, among other relevant information, must be considered:
- (a) the certainty of suitable general office space becoming available within the time frame proposed by the applicant;
- (b) the need for special construction (i.e sound proofing, lead lined walls or other facilities or construction not normally provided in general office space), plumbing, electrical (i.e. dedicated lines for

special equipment), or similar requirements for at least a majority of occupants;

- (c) if otherwise suitable general office space is in close proximity to or is likely to serve (based on proposed lease or similar arrangements) other health care facilities, medical practitioners, or related services; and
- (d) the likelihood that otherwise suitable general office space will be able to satisfy the needs identified under subparagraph (ii)(2)(b)(I), based on the current marketing plans of the owner of the general office space, cost to the practitioner or health care facility, or other market factors.

A negative finding under either item (a), (c), and (d), above, or an affirmative finding under item (b), above, is sufficient to satisfy the standard under subparagraph (ii)(2)(b)(II).

(v) Health Care Facilities - Special Limitations

- (1) The Planning Board must not approve a preliminary plan for a medical office building or medical or dental clinic under this paragraph that is expected to produce more than 50 new or additional jobs.
- (2) A health care facility must not be granted more than one special allocation under this paragraph.
- (3) Not more than 50 jobs may be approved in a policy area, or 100 jobs, in the aggregate county-wide, in each fiscal year.
- (4) The applicant must enter into an agreement with the Planning Board to maintain the development as a health care facility for a period of at least 15 years and to undertake appropriate traffic mitigation measures.

(vi) Special Ceiling Allocations - General Requirements

- (1) Any development approved under this subsection must meet all zoning requirements and all other subdivision requirements, including standards for local area transportation review.
- (2) Development approved under this subsection will be added to the pipeline.
- (3) The next final draft annual growth policy must contain a list of all pending or approved development under this subsection.

(d) Ceiling Flexibility for Developer Participation Projects

Staging Ceiling Flexibility allows the Planning Board, after considering the recommendation of the County Executive, to approve a preliminary plan application which exceeds the staging ceiling. In allowing the staging ceiling to be exceeded, caution should be exercised to assure that the average level of service for the relevant policy area is not adversely affected. Except as otherwise expressly stated in this subsection, the same level of service criteria already established in the Annual Growth Policy shall be used in evaluating an application to be approved under these ceiling flexibility provisions.

In general, such approval above the staging ceiling shall be conditioned upon the planned and scheduled construction by either the applicant and/or the government, of some public facility projects, or other appropriate capacity measure, (such as the private operation of a transit program) which, if added to the approved CIP or CTP programmed facilities, will add capacity or its equivalent to the existing facility system and result in no lessening of the area—wide level of service.

In general, the capacity addition must be scheduled for completion at the same time or before the proposed development is to be completed. The application must also be approved under Local Area Transportation Review standards. The nature, design and scale of the additional project or program must receive prior approval from the relevant governmental agencies responsible for constructing or maintaining such facilities or programs. The recommendation of the Executive also will be evaluated carefully.

Both the subdivision plan and the necessary additional facilities must be in accordance with an adopted master plan or other relevant policy statement; the design of the facilities must be subject to mandatory referral to the Planning Board; and the applicant and the relevant public agency must execute an appropriate public works agreement prior to record plat approval.

The phrase "additional transportation facilities" means transportation facilities other than those on which the policy area staging ceilings of the current Annual Growth Policy are based.

(i) Full-Cost Developer Participation

In cases where the applicant agrees to pay for the full cost of all the additional necessary public facilities, and the relevant administering agency has agreed, the Planning Board may approve subdivision plans whose public facility needs exceed the net remaining capacity under the adopted staging ceiling.

Where the applicant commits to provide the full cost of a transit, para-transit or ridesharing program, such application may be deemed to have passed the staging ceiling test, insofar as transportation is concerned, if the Board finds, after reviewing recommendations of the County Executive, that the program will reduce the number of peak-hour, peak-direction automobile trips by as many trips as would be generated by the proposed development. After a preliminary subdivision plan has been approved on this basis, later applications may be credited for reduced trips generated by the new proposal.

(ii) Partial-Cost Developer Participation

Partial—cost developer participation is available for certain types of development projects under certain circumstances described below. In cases of proposed partial—cost developer participation, the Planning Board may approve subdivision plans whose public facility needs exceed the net remaining capacity only if the following criteria, standards and requirements set forth in paragraphs (1) and (2) below are met. Related guidance to the Planning Board is set forth in paragraph (5), including provisions relating to approval of, and participation by, other subdivision applicants. Procedures and requirements for executive and legislative action for partial—cost developer participation are contained primarily in paragraphs (3) and (4).

(1) Eligible Project Criteria

- (a) The project has a development staging plan beyond 4 years and enables the consolidation or expansion of an employer already located in the County or allows the establishment of facilities for a new employer. Employer facilities must be primarily for specific and defined employment needs of the employer and not for the sale or leasing of speculative office, industrial or retail commercial space. The employer's business plan, purchase or lease arrangements, staging plan, occupancy projections, and other relevant factors should be considered to determine the primary purpose of the proposed facilities;
- (b) The project has a development staging plan extending beyond 4 years and enables planned development of superior and integrated design and/or transit serviceability in zoning categories that expressly allow partial-cost developer participation as designated by the District Council;

- (c) The project is to be located in the Research and Development Village, including the County-owned Life Sciences Center, as identified in the approved and adopted Master Plan; or
- (d) The project is to be located in the Germantown Town Center, as identified in the approved and adopted Germantown Comprehensive Master Plan.

(2) Public-Private Participation Requirements

- (a) Additional transportation facilities proposed to serve an eligible project must be sufficient, when combined with net remaining capacity, to provide policy area capacity for both the eligible project and other completed subdivision applications that have been filed earlier than that of the eligible project within the policy area.
- (b) The applicant for the eligible project agrees to condition subdivision approval on a staging schedule which will link the issuance of specific building permits receivable in each staging period to the execution of specific transportation construction contracts in the same staging period.
- (c) The applicant for the eligible project must construct or agree to pay all costs for all additional transportation facilities other than those facilities currently included for start of construction within the first six years of the adopted CIP or within the State Consolidated Transportation Program (CTP).
- (d) The applicant for the eligible project agrees to contribute transportation facilities and/or cash in a minimum amount of the greater of the following:
- 1. A total of 35% of the cost of all additional transportation facilities, with the cost determined as of the date of execution of the construction contract; or
- 2. A contribution of 100% of the costs of all additional transportation facilities other than those facilities currently included for start of construction within the first six years of the adopted CIP or within the adopted CTP; such costs are to be determined as of the date of execution of the construction contract for that transportation facility; or
- 3. Impact taxes, if applicable, at the date of issuance of building permit.

- (e) All applicants with residential components agree to be subject to special conditions with regard to school capacity, as described in Section B, Guidelines for Public School Facilities, below.
- (f) The applicant for an eligible project must execute a memorandum of understanding with the County Executive prior to Council action under paragraph (4)(b) specifying the private sector commitments under this paragraph. A separate participating subdivision applicant may also execute the memorandum of understanding. An applicant must agree in the memorandum of understanding that the public improvement agreement be made a condition of subdivision approval.

(3) Procedures and Action - Executive

All formal requests for staging ceiling flexibility under this provision must be made in writing to the County Executive after the applicant has filed a complete subdivision application with the Planning Board. The County Executive must review the request and determine whether or not to recommend authorizing legislation and/or a CIP amendment. The following items, among other relevant factors, should be considered:

- (a) whether the proposed subdivision plan constitutes an eligible project and otherwise meets all requirements of this subsection;
- (b) whether the proposed additional transportation facilities are consistent with the Executive's transportation program in terms of timing, location, design and cost;
- (c) the effect of the proposal on County operating budget or capital programs:
- (d) the financial and managerial capability of the applicant to undertake all requirements of this subsection utilizing current estimates of rights-of-way, design, and construction costs, adjusted for inflation to the date expected for their payment;
- (e) the existence of unresolved transportation programming, fiscal, or other policy issues.

On not less than a quarterly basis, the County Executive must transmit to the Council and Planning Board all written requests for partial cost developer participation that were not recommended and a brief description of the reason. The Council may request the County Executive to

reevaluate a request, provide greater detail, or initiate appropriate budgetary or legislative action.

(4) Procedures and Action - County Council

- (a) All proposed CIP amendments and requests for legislative special capital improvement project authorizations must be considered by the Council in accordance with all applicable fiscal and legislative procedures. In addition to any other information required to be submitted under law, the County Executive should submit to the Council information describing:
- 1. the eligible project for which the facilities are necessary;
- 2. the proposed staging schedule for both the facilities and the project;
 - 3. public facility programming issues;
- 4. the impact on the County's finances including the affordability of the proposed public facility program; and
- 5. a memorandum of understanding specifying, among other things, the private sector commitments under paragraph (2) above.

Before Council action, the Planning Board should comment on the public facility issues presented by the special capital improvement project legislation or CIP designation, the relationship between the additional transportation facilities and the proposed staging schedule, the effect on policy area ceilings, and any other relevant matters, as appropriate.

- (b) For additional transportation facilities required under paragraph (2)(a), above, to be available for partial-cost developer participation under this subsection, the County Council must:
- 1. enact all authorizing legislation or resolutions that would be required under law for the facility; and
- 2. designate the additional transportation facilities in the CIP, as appropriate for partial cost developer participation or as being fully funded by the private sector.

Transportation facility projects remain subject to all necessary applicable appropriations and federal, state and local regulatory or other approvals.

(c) Subsequent to any favorable County Council action, the County Executive, or designee, must execute a detailed public improvement agreement that formalizes the memorandum of understanding. The County Executive must periodically report to the Council on the status of public improvement agreements under this subsection and notify the Council of any material changes in circumstances affecting its legislative actions under the partial-cost developer participation provisions.

(5) Planning Board Action; Other Subdivision Applicant Participation

- (a) In its determination of whether transportation facilities are adequate to meet the needs of an eligible project, the Planning Board may count those facilities that have received favorable Council action under paragraph (4)(b), above, for both policy area ceilings and local area transportation review, without the need for those facilities to be shown in the Approved Road Program.
- (b) The Planning Board may similarly count these facilities and approve a subdivision plan with a completed application filing date that is earlier than that of the application of an eligible project if the applicant agrees to participate in the provision of additional transportation facilities, on a proportional trip generation or other agreed cost basis, and in accordance with the staging and public school requirements set forth in paragraph (2)(b) and (e), above. A public improvement agreement may include all participating subdivision applicants.
- (c) A non-participating applicant with an earlier application filing date than the eligible project may have its application approved within the same general time period as the eligible project if it meets normal local area transportation review requirements; however, it must be conditioned so that building permits will be approved only when building permits for the eligible project or participating subdivisions are eligible for approval. A non-participating applicant remains subject to all local transportation area review and other regulatory requirements.

(iii) Miscellaneous Provisions

Further staging ceiling flexibility is not available in the Silver Spring CBD because traffic mitigation measures of the Transportation Management District have been relied upon to establish the ceilings for the Group VI Policy Area in Silver Spring.

(e) Ceiling Flexibility - De Minimis Impacts

The approval of preliminary plans which add only a few vehicle trips will be considered on a case-by-case basis by the Planning Board. In general, in policy areas with no ceiling balance (i.e., no remaining capacity), all land at one location for which zoning or other constraints permit no more than ten trips in total may receive approval of up to five trips. Non-residential plans submitted for the purpose of expanding structures which were completed prior to 1982, or which otherwise request additional development on land that was partially developed prior to 1982, may receive approval for additional development which adds no more than five trips. The term, "all land at one location," means all land that would be included in a determination of whether a project is a "significantly sized project" under the Planning Board's adopted guidelines for Local Area Transportation Review.

(f) Amendment of Policy Ceilings

From time to time, these staging ceilings may be amended by the Montgomery County Council, after public hearing, to reflect changing conditions such as additions to the Capital Improvements Program or the State's Consolidated Transportation Program, changing patterns of public facility usage, revised levels of public service, and other relevant criteria.

Policy area ceilings may also be amended by the County Council to resolve public policy conflicts and to accomplish a particular public policy objective.

(g) Allocation of Staging Ceiling to Preliminary Plans of Subdivision

The Planning Board allocates available staging ceiling capacity in a policy area based on the queue date of an application for preliminary plan of subdivision approval.

(i) Assignment of queue date

The queue date of a preliminary plan of subdivision is the date:

- (1) a complete application is filed with the Planning Board;
- (2) a traffic study is filed, if required to obtain a new queue date under paragraph (iv)(2); or
- (3) 6 months after the prior queue date if the prior queue date expires under subparagraph (iii)(1)(a) and the application does not require a traffic study.

(ii) Calculation of available staging ceiling capacity

The Planning Board determines whether there is adequate staging ceiling capacity available for a project by subtracting the capacity required by projects with earlier queue dates from the remaining capacity on Table 2 as updated periodically. Based on this calculation, the Planning Board may:

- (1) approve a project for which there is sufficient capacity;
- (2) approve part of a project for which there is sufficient capacity, leaving the remainder of the project in the queue until additional capacity becomes available;
- (3) deny an application for a project for which there is insufficient capacity; or
- (4) defer approval of a project and leave the project in the queue until sufficient capacity becomes available for all or part of the project. In situations where there is insufficient capacity, staff must not schedule a hearing on the application unless the applicant requests one.

If there is sufficient capacity for a project based on the queue date, the Planning Board must not deny an application based on pipeline (but not staging ceiling) changes while the queue date is in effect.

(iii) Expiration of queue date

- (1) A queue date for an application for preliminary plan of subdivision approval expires:
 - (a) 6 months after the queue date if there was sufficient staging ceiling capacity for the entire project on the queue date and the Planning Board has not approved the application or granted an extension of the queue date (see paragraph 2 below);
 - (b) 6 months after sufficient capacity becomes available for the entire project if a traffic study is not required under paragraph (iv)(1);
 - (c) 6 months after a traffic study is filed if required under paragraph (iv)(1); or
 - (d) on the applicant's failure to request background data, to submit a traffic study, or to submit a complete updated traffic study after notice that a

study is incomplete, all within the time limits in subsection (iv).

(2) The Planning Board may grant one or more 6-month extensions of a queue date if the applicant demonstrates that a queue date expired or will expire because of governmental delay beyond the applicant's control. The Planning Department may grant one 6-month extension of a queue date for Health Department approval of individual sewage disposal or wells. Any additional queue date extensions for Health Department approval may only be granted by the Planning Board.

(iv) Traffic studies

(1) Required when sufficient capacity becomes available.

The queue date of an application for which there is not sufficient staging ceiling capacity when the complete application is filed will expire when sufficient capacity becomes available, unless the applicant:

- (a) requests background data from the Planning Board to prepare a traffic study within 1 month after capacity becomes available; and
- (b) submits a traffic study within 1 month after receiving the background data. However, if the Planning Board provides the background data between June 1 and September 15, the study must be submitted by October 15.

(2) Required to obtain a new queue date after expiration

If the queue date of an application which includes a traffic study expires, an updated traffic study must be filed to obtain a new queue date.

(3) Notice of incomplete traffic study

The Planning Board must notify an applicant within 15 days after a traffic study is filed if the study is incomplete. An applicant must file a complete traffic study within 30 days of receipt of the notice that a study is incomplete.

(v) Special Ceiling Allocation for Affordable Housing

If an application for a preliminary plan approval that uses the special ceiling allocation for affordable housing is denied by the Planning Board after July 1, 1992, the

applicant retains its original queue date and is subject to all other applicable provisions of this subsection.

(2) Local Area Transportation Review (LATR)

The traffic simulation model used for Policy Area Review addresses the average level of traffic in the policy area. If this were the only test, an area with acceptable average level of service could have one or more intersections, or roadway links, with unacceptably poor levels of service. It is necessary, therefore, that a local area test be applied to assure that new development is not allowed to cause such congestion.

Local Area Transportation Review shall, at all times, be consistent with the standards and staging mechanisms of adopted master plans and sector plans. In the Potomac Policy Area, only the areas contributing traffic to the following intersections will be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Democracy Boulevard at Westlake Drive; (e) Westlake Drive at Westlake Terrace; (f) Westlake Drive at Tuckerman Lane; and (g) Bradley Boulevard at Seven Locks Road.

In the area designated as the Silver Spring CBD Policy Area, the Planning Board, in consultation with the Department of Transportation, will prepare performance evaluation criteria for its Local Area Transportation Review. These criteria will be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive will publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program will list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD, and protect the surrounding residential area.

Until a new sector plan is approved by the County Council, for analysis of properties located within the Friendship Heights Central Business District (as defined by the 1974 Friendship Heights Sector Plan) that have had preliminary plans of subdivision approved before July 1, 1993, any traffic trips from approved and/or built projects on certain properties in the District of Columbia which exceed the total of 2,329 new trips allocated to those same properties in the District of Columbia pursuant and subject to the August 30, 1973 statement of the Inter-Jurisdictional Policy Task Force on Friendship Heights (as set forth in Appendix "E" and referred to on pages 39-41 of the 1974 Friendship Heights Sector Plan), shall not be used in making a determination that local intersections are operating at adequate levels of service.

Local Area Transportation Review must be undertaken for subdivisions which would generate 50 or more peak hour automobile trips in either of the following circumstances:

- For the policy area, total approved development is within 5 percent of the policy area ceiling; or
- For the local area, the proposed development is located near a congested area.

In administering the Local Area Transportation Review (LATR), the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection, or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if it does not make the situation worse.

In the Metro station policy areas of Grosvenor, Twinbrook, White Flint, Silver Spring CBD, and Wheaton CBD, a peak hour level of service worse than a Critical Lane Volume of 1,800 is unacceptable for Local Area Transportation Review. In all other Group II to V policy areas, a peak hour level of service worse than a Critical Lane Volume of 1,525 is unacceptable for Local Area Transportation Review. In Group I areas, level of service worse than a Critical Lane Volume of 1,450 is unacceptable for Local Area Transportation Review.

After consultation with the Council, the Planning Board may adopt administrative guidelines that allow use of a "delay" or queuing analysis, different critical lane volume standards, or other methodologies, to determine the level of congestion in appropriate geographic locations such as in urbanized areas, around Metrorail stations, or in specific confined areas planned for concentrated development related to other forms of transit.

The nature of the LATR test is such that a traffic study is necessary if local congestion is likely to occur. The Planning Board and staff will examine the applicant's traffic study to determine whether adjustments are necessary to assure that the traffic study is a reasonable and appropriate reflection of the traffic impact of the proposed subdivision after taking into account all approved development and programmed transportation projects.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those included in the most recent edition of the County Executive's Approved Road Program (ARP). The Approved Road Program shall include only roads programmed in the current approved Capital Improvements Program and the Maryland Consolidated Transportation Program for which:

(1) The County Executive has determined that construction will begin within two years of the effective date of the approved road program; and

(2) In the case of the County CIP, 100 percent of the expenditure for contracts, have been appropriated.

For these purposes, roads required under Section 302 of the Charter to be authorized by law are not to be considered programmed until the time for petition to referendum has expired without a valid petition, or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant will be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than five Critical Lane Movements.

The Planning Board has adopted guidelines for the administration of Local Area Transportation Review. To the extent that they are consistent with these legislative guidelines, the Planning Board guidelines may continue to apply or to be amended as the Planning Board deems it necessary to do so.

In its administration of Local Area Transportation Review, the Planning Board shall give careful consideration to the recommendations of the County Executive concerning the applicant's traffic study and proposed improvements or any other aspect of the review.

Approved guidelines for administration of the Local Area Review Transportation Improvement (LARTI) program are attached to this Resolution as Appendix I. The program is funded to the extent authorized under an approved Capital Improvement Program project description form. Chapter 11B (Contracts, Procurement Matter, etc.) of the County Code may not be construed to apply to the use of funds under the LARTI program. This program is a pilot program and not intended to permanently substitute public funds for transportation improvements offered by a developer in exchange for approvals.

(3) Alternative Review Procedures

(a) Metro Station Policy Areas

An applicant for a subdivision which will be built completely within the Wheaton CBD, Grosvenor, White Flint, or Twinbrook. Metro station policy area need not submit any application or take any action under (2) Local Area Transportation Review (LATR) if the applicant agrees in a contract with the Planning Board and the County Department of Transportation to:

(1) make its best efforts to meet mode share goals established by the Planning Board as a condition of approving that subdivision;

- (2) participate in programs operated by, and take actions specified by, a transportation management organization (TMO) to be established by County law for that policy area (or a group of policy areas including that policy area) in order to meet the mode share goals established under paragraph (1);
- (3) pay an ongoing annual contribution or tax to fund the TMO's operating expenses, including minor capital items such as busses, as established by County law; and
- (4) pay a development approval payment (DAP), to be established by County law, over a multi-year period starting when the building permit is issued and indexed to reflect inflation in construction costs.

The Planning Board must conduct a comprehensive Local Area Transportation Review for each policy area in which it approves a subdivision under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support that subdivision.

(b) Limited residential development

In fiscal years 1994, 1995, and 1996, an applicant for a residential subdivision need not take any action under (1) Policy Area Transportation Review or (2) Local Area Transportation Review (LATR) if the applicant pays to the County a development approval payment (DAP), to be established by County law, before the building permit is issued. However, the applicant must include in its application for preliminary plan approval all information that would be necessary if the requirements for Local Area Transportation Review applied.

This procedure may also be used, if the applicant reapplies for subdivision approval, for any residential subdivision with a preliminary plan of subdivision approved by the Planning Board before July 1, 1993. However, this procedure does not apply to a subdivision which has had a preliminary plan of subdivision approved by the Planning Board under the Special Ceiling Allocation for Affordable Housing, unless the subdivision is located in a large lot zone where Moderately Priced Dwelling Units (MPDU's) are not required.

The use of this procedure is subject to the following conditions:

- (1) The procedure must not be used in any part of the County which is not located in a policy area.
- (2) The procedure must not be used in any policy area which is exempt from the Special Ceiling Allocation for Affordable Housing or would be exempt from that Allocation if the Planning Board had approved at least 500 housing units in that policy area under that Allocation.

- (3) Under this procedure, the Board must not approve:
 - (A) more than 100 units at any one location under common ownership and control, as defined in the Planning Board's LATR Guidelines; and
 - (B) more than 300 units in any policy area in each fiscal year.
- (4) Any applicant for a subdivision approval under this procedure must agree, as part of the application, that it will build the same number of Moderately Priced Dwelling Units (MPDU's) among the first 100 units that it would be required to construct at that location if the subdivision consisted only of 100 units, or a pro rata lower number of MPDU's if the subdivision will include fewer than 100 units.
- (5) Any applicant for a subdivision approval under this procedure must agree, as part of the application, that it will not begin to construct any residential unit approved in the application later than 3 years after the plat is recorded or the site plan is approved (whichever occurs later).

The Planning Board must report in the Final Draft AGP each year on the number of housing units approved and built under this procedure and should specify for inclusion in the Capital Improvements Program any transportation improvements needed to support those units.

B. Guidelines for Public School Facilities

(1) Geographic Area

For the purposes of public school analysis and local area review of school facilities at time of subdivision, the County has been divided into 21 areas called high school clusters as shown in Map 6. These areas coincide exactly with the cluster boundaries used by the Montgomery County Public School system.

The Council evaluates available capacity in each high school cluster and compared enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity four years out.

If insufficient capacity is available, the Council determines whether an adjacent cluster or clusters has sufficient capacity to cover the projected deficit in school capacity. The Council's groupings are only for the administration of the Adequate Public Facilities Ordinance and are not in any way a required action by the Board of Education in exercising its power to designate school service boundaries.

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(2) School Capacity Measure

The Council uses 110 percent of Council funded program capacity as the school capacity measure in the administration of the Adequate Public Facilities Ordinance. This capacity measure does not count relocatable classrooms in computing a school's permanent capacity.

Based on the approved FY 94-99 CIP, the Council funded regular program capacity is a class size of 25 for grades 1-6, 44 for half day kindergarten where it is currently provided, 22 for all day kindergarten where it is currently provided, and an effective class size of 22.5 for secondary grades.

(3) Grade Levels

Each of the three grade level clusters, namely elementary, intermediate/middle school, and high school are assessed separately as part of the Annual Growth Policy.

(4) Determination of Adequacy

Using the approach outlined above, and assuming the Approved 94-99 CIP, the Council declares school capacity for school year 1997 to be adequate for anticipated growth during FY 94 in all high school clusters at all grade levels. Tables 3, 4, and 5 present the results of this analysis.

The Planning Board, in its review of preliminary plans of subdivision in FY 94, shall consider schools to be adequate for APFO purposes in all clusters.

(5) Affordable Housing

Because school capacity is determined to be adequate under paragraph (4) of this subsection, the Special Ceiling Allocation for Affordable Housing may be invoked only with respect to transportation ceilings. The need for such a special ceiling allocation with respect to school capacity will be considered at such time that capacity is determined to be inadequate in a particular cluster.

(6) Ceiling Flexibility for Partial Cost Developer Participation

When a subdivision with a residential component is approved for transportation capacity under the provisions of the Partial Cost Developer Participation subsection, the Planning Board may approve the subdivision for school facility adequacy if: (a) the subdivision is located in a school cluster area that has been designated as adequate for school capacity; and (b) the applicant agrees to condition his subdivision approval on a staging schedule, which will require the applicant to receive a subsequent APF approval for school capacity for all of the housing units that are scheduled in his staging plan to receive building permits after the end of the four year period used in calculating school capacity in this Annual Growth

Policy. This does not imply any obligation on the part of the Council to provide public school facilities in accordance with any staging plan and the applicant may provide private resources for school sites and/or school construction in order to assure adequate school capacity.

C. Guidelines for Water and Sewerage Facilities

In accordance with the language of the Adequate Public Facilities Ordinance itself, both for policy areas with a staging ceiling and in those without one, applications shall be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, or is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III) or if the applicant either provides a community water and/or sewerage system or meets health department requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the County Health Department.

Applications will only be accepted for further planning staff and Board consideration if they present evidence of meeting the appropriate requirements.

D. Guidelines for Police, Fire and Health Services

The Planning Board and staff shall consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence to believe that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and Operating Budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review committee clearinghouse, or through public commentary or planning staff consideration, a Local Area Review shall be undertaken. Such review shall seek a written opinion from the relevant agency, and will require, if necessary, additional data from the applicant, to facilitate the completion of the planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP shall be compared to the demand generated by the "most probable" forecast for the same year prepared by the Montgomery County Planning Department.

E. Guidelines for Resubdivisions

Applications to amend a previously approved preliminary plan of subdivision shall not require a new test for adequacy of public facilities in the following instances:

- Revisions to a preliminary plan which has not been recorded, if the preliminary plan has not expired and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.
- Resubdivision of a recorded lot involving the sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties to make small adjustments in boundaries.
- Resubdivision of a recorded lot involving more than 2,000 square feet or one percent of the lot area if less than three years have passed since preliminary plan approval; or, if construction has begun on any portion of the preliminary plan, less than five years have passed since preliminary plan approval; or, if construction of an APF related road improvement required as a condition of the original preliminary plan is proceeding as scheduled, less than 10 years have passed since preliminary plan approval. In each case, the number of trips which will be produced by the revised plan must not be greater than the number of trips produced by the original plan.

II. Timely Adequate Public Facilities Determination and Local Area Transportation Review under Chapter 8 - Buildings.

- A. General. Except as otherwise provided by law, an adequate public facilities determination or local area transportation review conducted under Article IV of Chapter 8 must use the standards and criteria applicable under Section I. of this Resolution when evaluating the adequacy of public facilities to serve the proposed development.
- B. Traffic Mitigation Goals. Any proposed development that is subject to requirements for a traffic mitigation agreement under Article IV of Chapter 8 and Chapter 42A-9A of the County Code must meet the traffic mitigation goals specified in paragraphs (1) or (4), as appropriate.
 - (1) Subject to paragraph (2), the portion of peak-period nondriver trips by employees of a proposed development must be at least the following percentage greater than the prevailing nondriver mode share of comparable nearby land use:
 - (a) Group V Policy Areas: 100%
 - (b) Group IV Policy Areas: 80%
 - (c) Group III Policy Areas: 60%
 - (d) Group II Policy Areas: 40%
 - (2) The portion of peak-period nondriver trips by employees calculated under paragraph (1) must not be less than 15% nor higher than 55%.

- (3) The applicant for a proposed development in a policy area specified under paragraph (1) is responsible for: reviewing existing studies of nondriver mode share; conducting new studies, as necessary, of nondriver mode share; and identifying the prevailing base nondriver mode share of comparable land uses within the area identified for the traffic study. Comparable land uses are improved sites within the area identified for the traffic study for the proposed development that have similar existing land use and trip generation characteristics. As with other aspects of the traffic study required by Article IV of Chapter 8 of the Code, selection of the comparable studies and land uses to be analyzed and determination of the prevailing base nondriver mode share are subject to review by the Planning Department of the Planning Board and approval by the Department of Transportation.
- (4) Proposed development in the Silver Spring CBD must meet the commuting goals specified under Section I(A)(1)(b) of this Annual Growth Policy.
- (5) In accordance with Section 42A-9A of the Code, the applicant must enter into an agreement with the Director of the Department of Transportation prior to issuance of a building permit. The agreement may provide for a schedule for full compliance with the traffic mitigation goals. It must provide appropriate enforcement mechanisms for compliance.
- (6) As provided by law, these goals supersede traffic mitigation goals established under Section 42A-9A (a)(4) of the Code.

III. Process for Amending Annual Growth Policy

County Code Section 33A-15(g)(4) provides that "The County Council may adopt a subsequent resolution, after public hearing, to amend the annual growth policy." The amendment process should be reserved for situations in which a need arises to resolve broad policy issues without waiting for the annual cycle of revision. In such cases, the process should follow a format similar to the one provided for the annual revision process under Section 33A-15, consisting of the following steps:

- (1) A request for amendment may be made in writing to the Planning Board.
- (2) The Planning Board may, in response to a request or on its own initiative, prepare an amendment. The amendment must be accompanied by a statement of the severity of the problem addressed, the nature of the conflict in public policies which is involved, and approaches for resolving the conflict, including any specific recommendations. If the Council or Executive requests an amendment which the Planning Board does not support, the Board must prepare a draft which complies with the original request, in addition to its own recommendations.

- (3) The Planning Board's amendment must be submitted to the County Executive, who may propose revisions in the form of specific additions or deletions, and who must then submit a recommendation on the amendment to the County Council.
- (4) After a public hearing, the County Council may approve, approve with revisions, or disapprove the proposed amendment.
- (5) The Planning Board's amendment must be forwarded to the County Executive not more than forty-five days after the Board receives a written request from the Executive or Council. The Executive's recommendation must be forwarded to the Council not more than thirty days after receipt of the Planning Board's amendment. The Council should act on the amendment not more than 45 days after the public hearing record closes.

IV. Issues to be Addressed During Next Fiscal Year

In adopting the FY 94 Annual Growth Policy, the Council recognizes that not all aspects of a comprehensive approach to growth policy can be addressed within one year. To ensure that the policy making process continues to be developed and refined, the following matters are to be addressed by the Planning Board, Board of Education, and the County Executive during the next fiscal year for presentation to, and decision by, the County Council:

- 1. Adequacy of Transportation Facilities Methodology The Planning Board should take the lead, with the aid of the Executive, in re-evaluating:
 - a) how or whether the level of service on freeways should be included in the calculation of staging ceilings;
 - b) the desirability of changing the level of service standard for Policy Area Transportation Review to be more sensitive to ridesharing, transit, and non-motorized transportation alternatives to the automobile; and
 - c) the Critical Lane Volume standards for Local Area Transportation Review, including the effect of varying the standard according to the extent to which ridesharing, transit, and non-motorized transportation alternatives to the automobile are present.
- 2. Adequacy of Public School Facilities Ceiling Flexibility The staffs of the Board of Education, the County Executive, the Planning Board and the Council will continue to evaluate options for a potential ceiling flexibility provision in the APFO school test. The staff group will report its options and findings to the Education Committee. If sufficient staff consensus exists on an option, it would appear in the Staff Draft of the next Annual Growth Policy in order to solicit general comment.

- 3. AGP Process Changes The Council will review the Planning Board consultant's report recommending changes to the Annual Growth Policy process, including whether to codify the major components of the Annual Growth Policy in a legislative framework, to allow technical procedures to be formulated as administrative rules, to review annual staging ceilings primarily for conformance with ordinance and technical requirements, and to schedule major policy reviews (those that change the legislative framework) at longer intervals.
- 4. Clarksburg Policy Area The Planning Board, with the aid of the Executive, should conduct the appropriate analyses necessary to allow the creation of a Clarksburg policy area.
- 5. Shady Grove Policy Area The Planning Board, with the aid of the Executive, should conduct the appropriate analyses necessary to allow the creation of a policy area in the Shady Grove Metrorail Station area, including the delineation of the policy area and the timing of its creation.
- 6. Ceiling Flexibility Partial-Cost Developer Participation The Planning Board should examine the utility of continuing this provision in the Annual Growth Policy.
- 7. Extension of Metro Area Alternative Review Procedure The Planning Board should evaluate the possible application of the Alternative Review Procedure for Metro Station Policy Areas to other policy areas.
- 8. Special Ceiling Allocation for Health Care Facilities The Planning Board should examine the utility of continuing this provision in the Annual Growth Policy.

Specific scheduling of items to be undertaken by the Planning Board under this Section may be addressed or changed at the quarterly report meetings with the County Council.

This is a correct copy of Council action.

Mary A. Edgar, CMC

Acting Secretary of the Council

Table 1
HOUSING
Transportation Staging Ceiling Capacity Using
FY 94 Transportation Ceilings
January 1, 1992 Base

Policy Area	FY 94 Net Housing Ceilings	Pipeline 4/30/93	FY 94 Remaining Capacity
Aspen Hill	(2,637)	2,511	(5,148)
Bethesda CBD	723	223	500
Bethesda/Chevy Chase	3,292	877	2,415
Cloverly	(1,269)	440	(1,709)
Damascus	(624)	346	(970)
Derwood/Shady Grove	1,506	127	1,379
Fairland/White Oak	(990)	1,468	(2,458)
Gaithersburg City	3,929	2,294	1,635
Germantown East	5,015	4,220	795
Germantown Town Center	1,902	138	1,764
Germantown West	3,840	3,135	705
Kensington/Wheaton	. 2,489	652	1,837
Montgomery Village/Airpark	(1,991)	1,982	(3,973)
New North Bethesda Policy Areas			
Grosvenor	1,400	0	1,400
Twinbrook	300	0	300
White Flint	1,700	800	900
North Bethesda (Remaining Area)	1,716	360	1,356
North Potomac	(3,432)	1,488	(4,920)
Olney .	2,713	2,189	524
Potomac	2,960	1,304	1,656
R & D Village	2,138	1,832	306
Rockville City	1,364	1,201	163
Silver Spring CBD	3,382	2,199	1,183
Silver Spring/Takoma Park	2,535	241	2,294
Wheaton CBD	1,540	31	1,509
Total:	44,444	30,058	22,621

Notes

Group I Policy Areas (e.g., Clarksburg) are not assigned staging ceilings. In these areas, subdivision applications are subject to Local Area Transportation Review, as well as to relevant zoning and water and sewer constraints.

The ceilings indicate the amount of additional development that can be supported with transportation capacity available from the first four years of the anticipated FY94-99 CIP or FY93-98 State CTP. Negative numbers indicate the amount by which the estimated level of development exceeds the ceiling. This table does not include the estimated base level of housing, which is shown in the tables of Appendix 5.

Although ceilings are shown for all policy areas, development in Potomac is controlled by the zoning, water and sewer constraints. Development in the Bethesda CBD is controlled by the cordon capacities established in the CBD sector plan. Development in the Silver Spring CBD is controlled by the limits established by the Silver Spring Sector Plan.

Numbers in columns do not sum to policy area totals because negative numbers are treated as zero for summation purposes.

Table 2
EMPLOYMENT
Transportation Staging Ceiling Capacity Using
FY 93 & Draft FY 94 Net Ceilings
January 1, 1992 Base

Policy Areas	FY 94 Net Jobs Ceilings	Pipeline 4/30/93	FY 94 Remaining Capacity
Aspen Hill	348	14	334
Bethesda CBD	2,001	1,696	305
Bethesda/Chevy Chase	10,847	2,638	8,209
Cloverly	(155)	30	(185)
Damascus	379	294	. 85
Derwood/Shady Grove	201	2,628	(2,427)
Fairland/White Oak	(1,501)	6,530	(8,031)
Gaithersburg City	14,850	18,796	(3,946)
Germantown East	15,380	15,004	376
Germantown Town Center	7,104	2,697	4,407
Germantown West .	10,663	9,353	1,310
Kensington/Wheaton	4,217	254	3,963
Montgomery Village/Airpark	463	5,729	(5,266)
North Bethesda Policy Areas			
Grosvenor	0	0	0
Twinbrook	971	0	971
White Flint	2,210	1,210	1,000
North Bethesda (Remaining Area)	8,330	8,330	0
North Potomac	114	223	(109)
Olney	1,614	947	667
Potomac	2,288	128	2,160
R & D Village	3,566	6,423	(2,857)
Rockville City	9,657	18,267	(8,610)
Silver Spring CBD	10,826	8,887	1,939
Silver Spring/Takoma Park	1,542	905	637
Wheaton CBD	2,813	65	2,748
Total:	110,384	111,048	29,111

Notes

Group I Policy Areas (e.g., Clarksburg) are not assigned staging ceilings. In these areas, subdivision applications are subject to Local Area Transportation Review, as well as to relevant zoning and water and sewer constraints.

The ceilings indicate the amount of additional development that can be supported with transportation capacity available from the first four years of the anticipated FY94-99 CIP or FY93-98 State CTP. Negative numbers indicate the amount by which the estimated level of development exceeds the ceiling. This table does not include the estimated base level of housing, which is shown in the tables of Appendix 5.

Although ceilings are shown for all policy areas, development in Potomac is controlled by the zoning, water and sewer constraints. Development in the Bethesda CBD is controlled by the cordon capacities established in the CBD sector plan. Development in the Silver Spring CBD is controlled by the limits established by the Silver Spring Sector Plan.

Numbers in columns do not sum to policy area totals because negative numbers are treated as zero for summation purposes.

TABLE 3: ELEMENTARY SCHOOLS BY HIGH SCHOOL CLUSTER

Comparison of 1997 MCPS Projected Elementary School Enrollment to 1997 Program Capacity

Provided by the County Council Adopted FY 94-99 CIP

	A	В	С	D	E
School Policy Areas (High School Cluster)	September 1997 Enrollment Projected by MCPS (as of 6/93)	100% of 1997 Program Capacity with County Council Adopted FY 94-99 CIP	Capacity. Remaining at 100% B-A	110% of 1997 Program Capacity with County Council Adopted FY 94-99 CIP B*110%	Capacity Remaining at 110% D-A
					•
Bethesda-Chevy Chase	2,949	3,059	110	3,365	416
Blair	4,910	5,286	376	5,815	905
Churchill	2,164	2,421	257	2,663	499
Damascus	2,949	3,277	328	3,605	656
Einstein	2,893	3,037	144	3,341	448
Gaithersburg	5,148	4,915	(233)	5,407	259
Walter Johnson	2,698	2,699	1	2,969	271
Kennedy	2,474	2,479	5	2,727	253
Magruder	3,105	2,932	(173)	3,225	120
R. Montgomery	2,390	2,562	172	2,818	428
Paint Branch	3,786	3,829	43	4,212	426
Poolesville	907	919	12	1,011	104
Quince Orchard	3,696	4,067	371	4,474	778
Rockville	2,334	2,740	406	3,014	680
Seneca Valley	5,247	5,092	(155)	5,601	354
Sherwood	3,122	2,826	(296)	3,109	(13)
Springbrook	3,803	4,212	409	4,633	830
Watkins Mill	3,265	3,280	15	3,608	343
Wheaton	2,635	2,667	32	2,934	299
Whitman	2,070	2,154	84	2,369	299
Wootton	2,875	3,125	250	3,438	563
Total	65,420	67,578	2,158	74,336	8,916

Enrollment Projections by Montgomery County Public Schools

Cluster Capacity as stated in the County Council Adopted FY 94-99 CIP.

Source: Montgomery County Public Schools, the County Council Adopted FY 94-99 CIP; the Montgomery County Planning Department, Research Division.

TABLE 4: MIDDLE SCHOOLS BY HIGH SCHOOL CLUSTER

Comparison of 1997 MCPS Projected Middle School Enrollment to 1997 Program Capacity

Provided by the County Council Adopted FY 94-99 CIP

	Α	В	С	D	E
	T	100% of		110% Of 1997	
		1997 Program		Program Capacity	_
	September 1997	Capacity		with	
	Enrollment	with .	Capacity	County Council	Capacity
	Projected by	County Council	Remaining	Adopted	Remaining
School Policy Areas	MCPS	Adopted	at 100%	FY 94-99 CIP	at 110%
(High School Cluster)	(as of 6/93)	FY 94-99 CIP	B-A	B*110%	D-A
Bethesda-Chevy Chase	929	912	(17)	1,003	74
Blair	2,475	2,498	23	2,748	273
Churchill	1,577	1,616	39	1,778	201
Damascus	1,283	1,270	(13)	1,397	114
Einstein	1,186	1,160	. (26)	1,276	90
Gaithersburg	. 1,987	2,084	97	2,292	305
Walter Johnson	1,223	1,129	(94)	1,242	19
Kennedy	1,217	1,620	403	1,782	565
Magruder	906	788	(118)	867	(39)
R. Montgomery	957	973	16	1,070	113
Paint Branch	1,662	1,734	72	1,907	245
Quince Orchard	1,692	1,703	11	1,873	181
Rockville	944	942	(2)	1,036	92
Seneca Valley	1,929	1,980	51	2,178	249
Sherwood	1,936	1,850	(86)	2,035	99
Springbrook	1,651	1,909	258	2,100	449
Watkins Mill	1,432	1,675	243	1,843	411
Wheaton	987	1,055	68	1,161	174
Whitman	1,115	1,065	(50)	1,172	57
Wootton	889	833	(56)	916	27
·					
Totai	27,977	28,796	819	31,676	3,699

Enrollment Projections by Montgomery County Public Schools

Cluster Capacity as stated in the County Council Adopted FY 94-99 CIP.

Poolesville's middle and high school are one facility. Projections are shown in the high school table.

Rosa Parks is reflected in the Sherwood enrollment and capacity projections.

Source: Montgomery County Public Schools, the County Council Adopted FY 94-99 CIP; the Montgomery County Planning Department, Research Division.

TABLE 5: HIGH SCHOOLS BY CLUSTER

Comparison of 1997 MCPS Projected High School Enrollment to 1997 Program Capacity

Provided by the County Council Adopted FY 94-99 CIP

	A	В	С	D	E
School Policy Areas (Migh School Cluster)	September 1997 Enrollment Projected by MCPS (as of 6/93)	100% of 1997 Program Capacity with Council Adopted FY 94-99 CIP	Capacity Remaining at 100% B-A	110% Of 1997 Program Capacity with County Council Adopted FY 94-99 CIP B*110%	Capacity Remaining at 110% D-A
Bethesda-Chevy Chase	1,382	1,508	126	1,659	277
Blair	2,659	2,400	(259)	2,640	(19)
Churchill	1,597	1,512	(85)	1,663	66
Damascus	1,535	1,486	(49)	1,635	100
Einstein	1,357	1,412	55	1,553	196
Gaithersburg	2,014	1,892	(122)	2,081	67
Walter Johnson	1,455	1,480	25	1,628	173
Kennedy	1,425	1,262	(163)	1,388	(37)
Magruder	1,745	1,598	(147)	1,758	13
R. Montgomery	1,641	1,504	(137)	1,654	13
Paint Branch	1,921	1,625	(296)	1,788	(133
Poolesville	1,059	. 878	(181)	966	(93
Quince Orchard	2,265	2,361	96	2,597	332
Rockville	1,371	1,282	(89)	1,410	39
Seneca Valley	1,953	2,344	391	2,578	625
Sherwood	1,703	1,732	29	1,905	202
Springbrook	2,240	2,070	(170)	2,277	37
Watkins Mill	1,897	1,768	(129)	1,945	48
Wheaton	1,332	1,205	(127)	1,326	(7
Whitman	1,536	1,548	12	1,703	167
Wootton	1,674	1,558	(116)	1,714	40
Total	35,761	34,425	(1,336)	37,868	2,107

Enrollment Projections by Montgomery County Public Schools

Cluster Capacity as stated in the County Council Adopted FY 94-99 CIP.

Proclesville's middle and high school are one facility. Projections include grades 6-12.

Source: Montgomery County Public Schools, the County Council Adopted FY 94-99 CIP: The Montgomery County Planning Department, Research Division.

				Transit Services Avai Bus Bas	Available or Programmed		Fixed G	uldeway	
Average Roadway Level of			Auto Dependent System and/or	<u> </u>		and/or	Syst	cma	
	, Czana	Public Transport Alternatives to	Park/Ride	Community Regionand Local Bus Bus Service Veh	nal Park/Ride Express and High Occupancy icle Priority Systems		Commuter Rail or Light Rail	Metrorail	
Service Standards		- Automobile		Representative Quantification Measures**					
			Number of Park/ Ride Spaces Serving the Policy Area	2. Average Bus Frequencies in AM Peak Hour on Combined Routes	3. Number of Parking Spaces in Fringe Parking Lots	4.	Average Frequency of Commuter Rail AM Peak Hour	5. Average Frequency of Metrorall in AM Peak Hour	
				(Buses per hour)			(Trains per hour)	(Trains per hour)	
*	I	Marginal	Marginal access to stations or bus routes outside of the area	Not available	Not available	of	arginal amount the area is within alk access	Not available	
C	II	Limited	Limited number of park/ride spaces	Limited coverage and frequency	Limited park/ride spaces or lots with local bus serv	vice ac	nited park/ride cess and walk cess	Park/ride and kiss/ride access limited to nearby stations outside of the ar	
			100 to 500	2 to 3.5	100 to 500		3 to 6	0	
C/D	111	Moderate	Moderate number of park/ride spaces, limited kiss/ride service	Moderate coverage, service limited to policy frequencies	Moderate express bus set in conjunction with a sys of park/ride lots	stem wa	oderate parking or alk access with stem transfers	Moderate station coverage and train frequencies in the area with associate feeder access	
			500 to 1,000	3.5 to 5	500 to 2,250		6 ог тоге	0 to 15	
D	IV	Frequent	Very good number of park/ride spaces and moderate kiss/ride service	Moderate coverage,- combined policy and frequent demand- based service	Priority treatment for free express buses, local circu feeder services in conjun with a system of park/ric	ulation ab action	ame as Group III	More dense spacing of stations and bus routes, frequent train service	
			1,000 to 1,500	5 to 8	More than 2,250			15 to 35	
D/E	V	Full	Substantial park/ride with full reliance on kiss/ride access	Full area coverage and a large number of routes with frequencies based on demand	Same as Group IV above		ame as Group III pove	Full frequency and full reliance on kiss/ride, easier walk and bicycle access	
			1,500 to 2,250	8 to 10				More than 35 •	
*	VI	Expanded	Expanded park/ride with reliance on kiss/ride access	Expanded bus frequencies, 100 buses on all routes in PM Peak Hour	Same as Group IV above		ame as Group III pove	Full frequency, station in designated CBD with controlled parking and Transportation Mgmt. District	
								More than 35	

^{*} See text of the adopted AGP for methods and standards of measuring traffic.

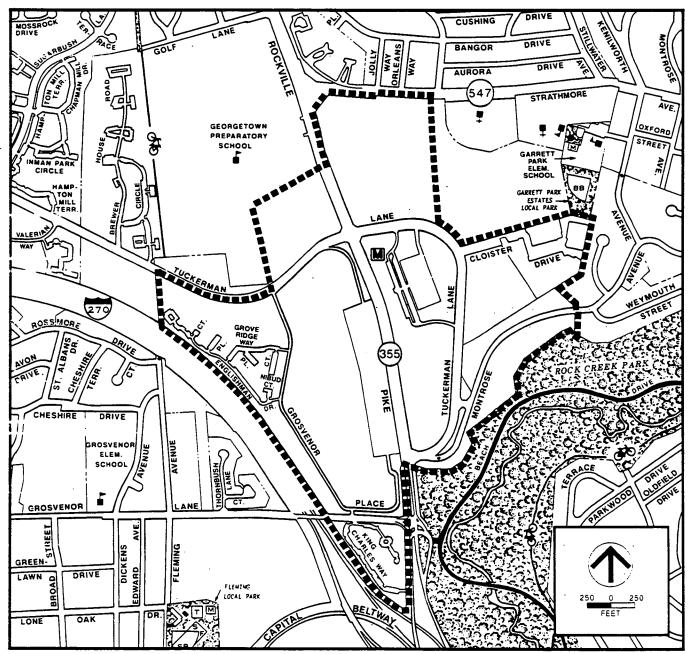
^{**} Other measures also are used in quantifying level of service; see supporting documentation.

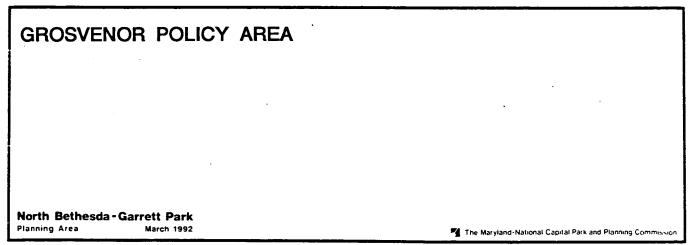
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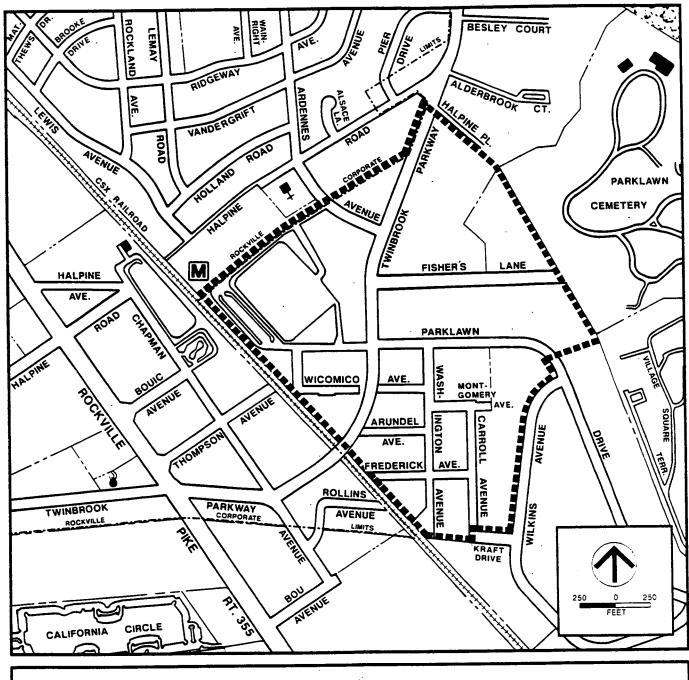
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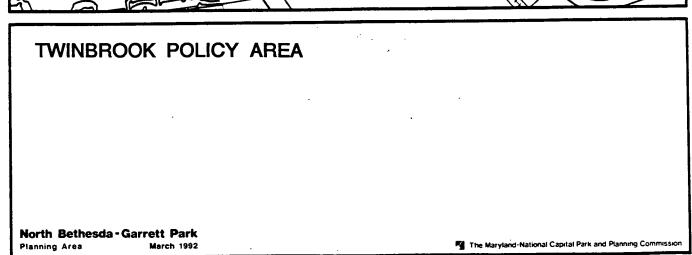
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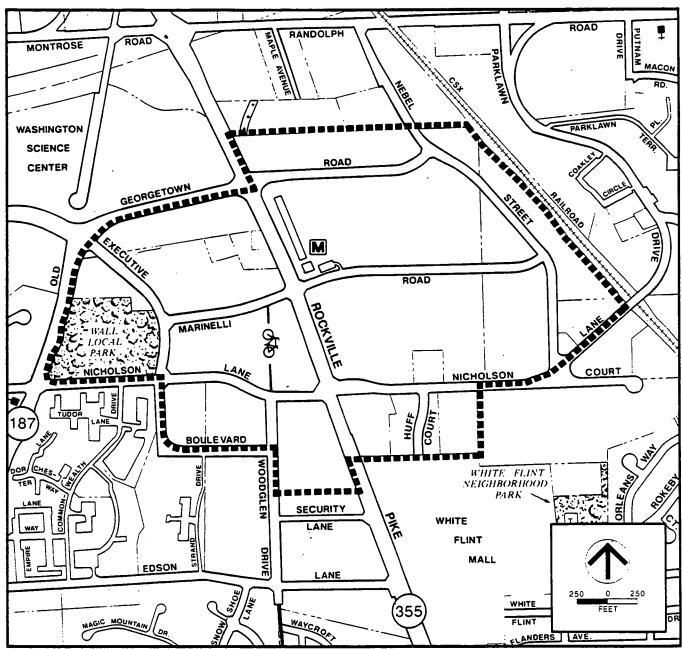
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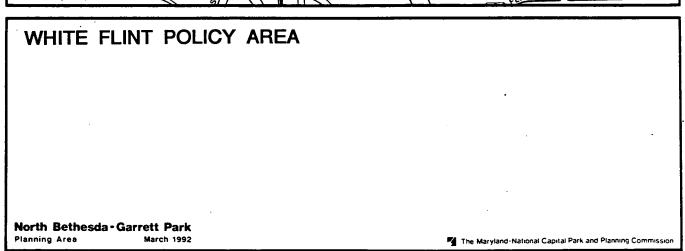


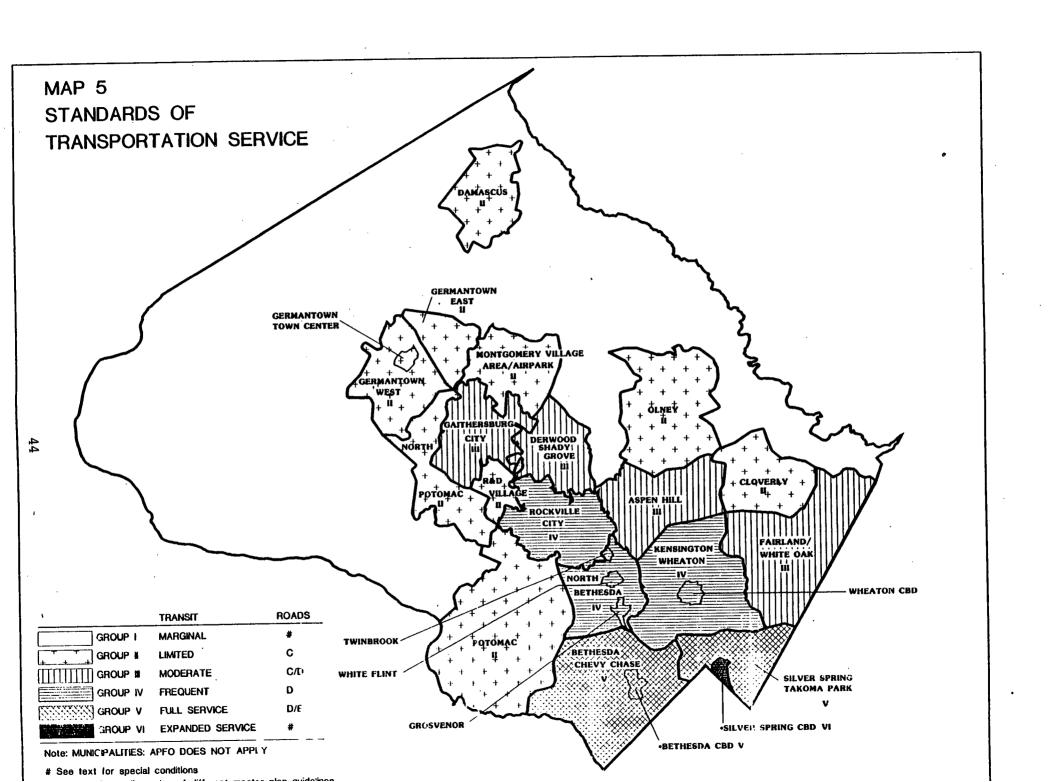












GUIDELINES FOR FUNDING OF LOCAL AREA REVIEW TRANSPORTATION IMPROVEMENTS (LARTI)

- 1. <u>Purpose</u>: The primary purpose of the Local Area Review Transportation Improvements (LARTI) pilot program is to "jump-start" and promote housing development in Montgomery County which has received preliminary plan approval from the Montgomery County Planning Board but which cannot proceed due to a developer's inability to finance off-site improvements required by the Local Area Transportation Review Test under the Adequate Public Facilities Ordinance. The LARTI program will provide funds for selected eligible improvements and will require reimbursement from participants.
- 2. Eligibility Criteria: In order to be eligible for LARTI funds the applicant must meet the following criteria:
 - (a) The proposed project must be for housing development, which may also include housing as part of a mixed-use development. Two-thirds of the total trips associated with the project must be for housing units priced at or below the median sales price for new residential construction. For each type of residential construction, the County Executive shall determine an appropriate median sales price.
 - (b) If a mixed-use development is proposed to be constructed in phases, then only each phase which contains a minimum of 66 2/3 percent in residential uses (as measured by trips) is eligible for LARTI funding.
 - (c) The project must be in a policy area that has a positive Net Housing Ceiling. The Net Housing Ceiling must be able to accommodate the project.
- 3. Application Process: Any applicant who has a residential project which meets the eligibility criteria must submit an application to the Montgomery County Department of Transportation. The application must include the following information, as well as any other relevant information requested by MCDOT:
 - (a) A feasibility statement pertaining to the residential portion of the proposed project which must include:
 - (1) a marketability study for the residential portion of the proposed project;
 - (2) a staging plan for construction of the housing;
 - (3) layout and design of the housing, including roads;

- (4) a financing plan for construction of the housing with commitment letters for the financing or some other evidence of financial backing; and
- (5) estimated construction costs for the residential portion of the proposed project.
- (b) The names and addresses of all owners of record of the property.
- (c) A description of the property by tax account number, lot and block number, acres/feet, and subdivision name.
- (d) A description and engineering design, including cost estimates, of the LARTI which is proposed to be advance-funded by the County.
- 4. Review and Approval: Applications shall be pooled and reviewed to determine approval for funding. The Department of Transportation may establish appropriate time-frames for submission and review of applications. The Department may establish additional procedures not inconsistent with these guidelines. All complete applications otherwise eligible under Section 2 shall be evaluated to determine which provides the most cost effective use of County funds. They should be evaluated considering, among other relevant factors: 1) amount of low or moderately priced housing; 2) the potential amount of housing delivered per dollar advanced; 3) timing of reimbursement by the applicant; 4) impact of the project in addressing traffic safety concerns; and 5) the extent to which the proposed road project or projects mitigates existing traffic congestion.

MCDOT, after consultation with the Montgomery County Department of Housing and Community Development, may approve or disapprove, in whole or in part, an application for funding of LARTI of the residential portion of the proposed project. The amount of the LARTI which may be funded by MCDOT must not exceed the amount of funding approved by the Montgomery County Council in the CIP for PDF933129. If there is no funding remaining to be allocated by MCDOT for eligible projects, then MCDOT may approve list of projects which will be considered for any future funds allocated and approved by the County Council. In determining whether to approve or disapprove a proposed project, MCDOT must consider the information provided by the applicant in the Feasibility Statement, the factors specified in these guidelines, and the likelihood that the County will be reimbursed for the funding advanced for the LARTI. The Planning Board or its staff shall be given the opportunity to comment on applications within the review and approval time-frames applicable to the funding decision.

5. <u>Funding Agreement</u>: Following approval of funding for a proposed project, the applicant must enter into an agreement with the County which will specify the LARTI to be advance-funded by the County, the amount of such funding, the method and timing of the reimbursement to the County of the advance-funds, protection for the County as creditor, and such other provisions as may be deemed necessary by MCDOT or the County Attorney's Office. If the applicant and the County do not enter into a funding

agreement within 60 days of approval by the County of the application, then the approval is deemed to be withdrawn and the funds may be reallocated by MCDOT to another project. The funding agreement must provide that the funds for LARTI must be repaid to the County within no more than two years of the signing of the funding agreement or at the time of the sale of at least 1/3 of the lots or dwelling units which were the subject of the approved residential portion of the project, whichever comes first.

BB/BB 456/LAW/1-3





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION 8787 GEORGIA AVENUE SILVER SPRING, MARYLAND 20910-3760